

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 500 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

KASHIRAM JIVABHAI VAGHARI

Versus

STATE OF GUJARAT

Appearance:

MR NL RAMNANI for Petitioners
MR BY MANKAD APP for Respondent No. 1

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 27/11/2000

ORAL JUDGEMENT

Rule. Service of Rule is waived by Mr. B.Y.Mankad learned APP for revision opponent no.1 - The State. On perusal of the impugned order, it appears that Rule is not required to be issued against the revision opponent no.2, as he is a formal party i.e. Complainant

and as stated by Mr. A.J.Solanki, the learned advocate for the revision petitioner, the complainant has not filed any application to receive back the Muddamal articles.

2. At the request of both the parties, this Criminal Revision Application is taken up for final hearing to day. The learned advocates for both the parties jointly submitted that reasons be not assigned in the judgment of this Court at the time of disposing of this application.

3. Having heard the learned advocates for both the parties, and on going through the impugned judgment dated 15th November, 2000 rendered by the learned Additional Sessions Judge, Gandhidham - Kuchchh, in Criminal Appeal No. 4 of 2000, and Para 2 of final operative order of judgment Ex.115 dated 11.7.2000 rendered in Criminal Case No.716/97 of the trial Court, this Court is of the view that the order dt. 11th July, 2000 passed by the learned 2nd Joint Judicial Magistrate, First Class, Gandhidham -Kuchchh in Criminal Case No.716 of 1997 so far as it relates to order regarding inquiry to be held for return of Muddmal articles, requires to be quashed and set aside, and suitable directions are required to be given to the learned Magistrate.

4. In view of what is stated hereinabove, the order with regard to an inquiry to be held for return of Muddmal articles passed in Para 2 of final operative order dt. 11th July, 2000 by the learned J.M.F.C., Gandhidham -Kuchchh in Criminal Case No. 716 of 1997 is set aside. The learned Magistrate is directed to hold an inquiry for Muddamal articles stated in Ex.18 strictly as per the provisions of Sec.452(1) of the Criminal Procedure Code, 1973 on merits and also in accordance with law, by affording full opportunity of being heard to all the concerned parties, without being influenced by order of this Court. Rule is made absolute accordingly. Direct service is permitted.

Date: 27/11/2000. (H.H.MEHTA, J.)
ccshah